

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN BREATH TEST SYSTEMS  
FOR THE DETECTION OF  
GASTROINTESTINAL DISORDERS  
AND COMPONENTS THEREOF**

**Inv. No. 337-TA-495**

**NOTICE OF INVESTIGATION**

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. §1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 24, 2003, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, on behalf of Meretek Diagnostics, Inc. of Lafayette, Colorado, and Medquest PTY, Ltd. of Perth, Australia. Supplements to the complaint were filed on July 11, 2003, and July 18, 2003. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain breath test systems for the detection of gastrointestinal disorders and components thereof by reason of infringement of claims 1, 2, 3, and 5 of U.S. Patent No. 4,830,010. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD

terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2576.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §210.10 (2003).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on July 22, 2003, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain breath test systems for the detection of gastrointestinal disorders or components thereof by reason of infringement of claims 1, 2, 3, or 5 of U.S. Patent No. 4,830,010 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are –

Meretek Diagnostics, Inc.  
2655 Crescent Dr., Ste. C  
Lafayette, CO 80026

Medquest PTY, Ltd.  
59 Ellesmere St.  
Mount Hawthorn  
Perth  
Western Australia

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Oridion Systems, Ltd.  
7 HaMarpe St.  
Har Hotzvim Science Based Industrial Park  
POB 45025  
91450 Jerusalem, Israel

Oridion Medical 1987 Ltd.  
7 HaMarpe St.  
Har Hotzvim Science Based Industrial Park  
POB 45025  
91450 Jerusalem, Israel

Oridion BreathID Ltd.  
7 HaMarpe St.  
Har Hotzvim Science Based Industrial Park  
POB 45025  
91450 Jerusalem, Israel

Oridion BreathID Inc.  
21 Highland Circle  
Needham, MA 02494

(c) David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §210.13. Pursuant to 19 C.F.R. §§201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time

for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: July 24, 2003